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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OLYMPIC OPHTHALMICS, INC., a Delaware corporation, Plaintiff, v. MICHAEL GERTNER, an individual, Defendant.	Case No. C24-2074-RSM ORDER GRANTING MOTION TO STAY AND STRIKING MOTION TO COMPEL

This matter comes before the Court on Defendant Michael Gertner's Motion to Stay, Dkt. #27. Plaintiff Olympic Ophthalmics, Inc. ("Olympic") opposes. Dkt #28. Neither party requests oral argument.

Defendant Gertner moves to stay proceedings "to await outcomes in two parallel proceedings," a petition before the U.S. Patent and Trademark Office and arbitration proceedings initiated by Defendant against Plaintiff. *See* Dkt. #27 at 1.

Plaintiff Olympic argues in its Response that the U.S. Patent and Trademark Office petition was dismissed on August 5, 2025, and Defendant Gertner does not dispute this. *See* Dkts. #28 and #29. The Court will not stay the case on this basis.

ORDER GRANTING MOTION TO STAY AND STRIKING MOTION TO COMPEL - 1

As for the parallel arbitration proceedings, they arise out of an arbitration agreement between the parties and include not only Defendant Gertner's claims for breach of contract and unpaid wages, but Plaintiff Olympic's counterclaims for breach of contract and fiduciary duty. *See* Dkt. #27-3. Plaintiff alleges that Defendant "breached the Consulting Agreement by, inter alia, failing to deliver Olympic's property to Olympic, including but not limited to Confidential Information, devices and equipment belonging to the Company, and electronically-stored information and passwords." *Id*. at 6. Plaintiff alleges that Defendant breached a fiduciary duty by selling "Company property." *Id*. at 7. Plaintiff also states that the arbitration agreement requires arbitration for "any and all controversies, claims or disputes … arising out of, relating to, or resulting from Consultant's consulting relationship with the Company" in accordance with the "JAMS streamlined rules for the resolution of disputes." *Id*. at 5.

In this lawsuit, Plaintiff alleges trademark infringement, false designation of origin and unfair competition, conversion, and breach of fiduciary duties. *See* Dkt. #1.

A district court has broad discretion to stay proceedings, incidental to the inherent power to control its own docket. *Clinton v. Jones*, 520 U.S. 681, 706 (1997) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). This power includes staying an action "pending resolution of independent proceedings which bear upon the case." *Mediterranean Enters., Inc. v. Ssangyong Corp.*, 708 F.2d 1458, 1465 (9th Cir. 1983).

The Federal Arbitration Act ("FAA") sets forth procedures for enforcing arbitration agreements in federal court. Section 3 of the FAA specifies that, when a dispute is subject to arbitration, the court "shall on application of one of the parties stay the trial of the action until [the] arbitration" has concluded. 9 U.S.C. § 3; *see also Smith v. Spizzirri*, 601 U.S. 472, 144 S. Ct. 1173, 218 L. Ed. 2d 494 (2024).

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1   Given all of the above, it is clear to the Court that this matter must be stayed pending the

2 parallel arbitration because at least some of the claims at issue are also being arbitrated by the

3 parties per their agreement and because the arbitration agreement may cover any and all

4 disputes arising between the parties

5   Accordingly, having reviewed the relevant pleadings and the remainder of the record,

6 the Court hereby finds and ORDERS that Defendant Michael Gertner's Motion to Stay, Dkt.

7 #27, is GRANTED. This case is STAYED pending the completion of the parallel JAMS

8 arbitration proceedings. The pending Motion to Compel in this case is STRICKEN and must

9 be refiled, if necessary, with a new meet-and-confer certification. The parties shall file a joint

10 status report notifying the Court within seven days of the conclusion of the arbitration

11 proceedings.

12 DATED this 8th day of September, 2025.

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RICARDO S. MARTINEZ
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UNITED STATES DISTRICT JUDGE

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